

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION**

RYAN LLC,	§	
Plaintiff,	§	
	§	
CHAMBER OF COMMERCE OF	§	
THE UNITED STATES OF	§	
AMERICA, BUSINESS	§	
ROUNDTABLE, TEXAS	§	
ASSOCIATION OF BUSINESS, and	§	
LONGVIEW CHAMBER OF	§	
COMMERCE,	§	
Plaintiff-Intervenors,	§	
	§	
v.	§	
	§	
FEDERAL TRADE COMMISSION,	§	
Defendant.	§	

Civil Action No.: 3:24-CV-00986-E

**CONSENT MOTION OF THE AMERICAN HOSPITAL ASSOCIATION  
AND THE FEDERATION OF AMERICAN HOSPITALS FOR LEAVE TO  
FILE A BRIEF AS *AMICI CURIAE* IN SUPPORT OF PLAINTIFF’S AND  
PLAINTIFF-INTERVENORS’ MOTIONS FOR SUMMARY JUDGMENT**

The American Hospital Association and the Federation of American Hospitals (together, “*Amici*”), respectfully seek leave to file the accompanying brief as *amicus curiae* in support of Plaintiff Ryan, LLC, and Plaintiff-Intervenors U.S. Chamber of Commerce, Business Roundtable, Texas Association of Business, and Longview Chamber of Commerce. All parties consent to this motion.

1. Plaintiff and Plaintiff-Intervenors challenged the Federal Trade Commission’s (“Commission” or “FTC”) Non-Compete Clause Rule (the “Non-

Compete Rule”), 89 Fed. Reg. 38,342 (May 7, 2024), which would prohibit non-compete clauses in employment agreements nationwide. After the Court preliminarily enjoined the FTC from enforcing the Rule against named Parties, ECF 154, Plaintiff and Plaintiff-Intervenors filed motions seeking summary judgment, ECF 166, 168.

2. Pursuant to N.D. Tex. LR 7.2(b), *Amici* intend to seek this Court’s leave to file an amicus brief in support of Plaintiff and Plaintiff-Intervenors’ Motions for Summary Judgment. Leave to file an amicus brief “is solely within the broad discretion of the district court.” *Edwards v. Oliver*, 2021 WL 11717751, at \*1 (N.D. Tex. Mar. 4, 2021); *see United States ex rel. Long v. GSD & M Idea City LLC*, 2014 WL 11321670, at \*4 (N.D. Tex. Aug. 8, 2014) (holding that a court may consider amicus briefs if the “proffered information is timely and useful or otherwise necessary to the administration of justice.”).

3. *Amici* respectfully submit that the proposed amicus brief will offer guidance to the Court in resolving the pending motions. *Amici*, national associations collectively representing more than 6,000 hospitals, healthcare systems, and other healthcare organizations, serve the United States’ most vulnerable communities by providing a wide range of medical services in a variety of healthcare settings.

4. *Amici* file this brief to offer their unique perspectives on the Rule’s

damaging impact on the healthcare industry. The proposed brief explains that Plaintiff's and Plaintiff-Intervenors' pending motions for summary judgment should be granted because the Rule, which was unlawfully promulgated without appropriate statutory authority, also creates inappropriate market distortions in the healthcare system and is otherwise arbitrary and capricious. Despite *Amici* timely providing detailed comments outlining the Rule's unstudied distorting effects, providing relevant evidence and studies, and suggesting alternative approaches, the FTC failed to adequately address *Amici*'s concerns or consider alternatives more narrowly tailoring the Rule. If the Rule were to go into effect, hospitals nationwide would face arbitrarily uneven regulation, creating significant, unintended, and anticompetitive distortions in the healthcare industry. To remedy the unlawful Rule, *Amici* urge this Court to adhere to its directive under the Administrative Procedure Act to set aside unlawful agency action and vacate the Rule in its entirety.

5. The proposed amicus brief is attached to this motion.

6. Counsel for the Plaintiff and Plaintiff-Intervenors consent to this motion. Counsel for Defendant consents to this motion.

### **CONCLUSION**

For the foregoing reasons, *Amici* respectfully submit that the Court should grant *Amici* leave to file an amicus brief.

Respectfully submitted,

DATED: July 26, 2024

HOOPER, LUNDY & BOOKMAN, P.C.

/s/ Katrina A. Pagonis

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Counsel for *Amici Curiae*

**CERTIFICATE OF WORD COUNT**

I hereby certify that pursuant to the Court's Procedures and Standing Order, this Motion contains 509 words, excluding the case caption, signature block, and certificates, but including any footnotes, as calculated by my word processing software.

DATED: July 26, 2024

*/s/ Katrina A. Pagonis*

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Katrina A. Pagonis

**CERTIFICATE OF CONFERENCE**

I hereby certify that on July 23, 2024, my office conferred with counsel for Plaintiff, counsel for Plaintiff-Intervenors, and counsel for Defendant for their position on this motion. Counsel for Plaintiff and Plaintiff-Intervenors consent to this motion. Counsel for Defendant consents to this motion.

DATED: July 26, 2024

*/s/ Katrina A. Pagonis*

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Katrina A. Pagonis

**CERTIFICATE OF SERVICE**

I hereby certify that on July 26, 2024, I electronically filed this document using the ECF System, which will send notification to the ECF counsel of record.

DATED: July 26, 2024

/s/ Katrina A. Pagonis

Katrina A. Pagonis